

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application Nos. 2076 & 2044 of 2022

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of bail application.

24-03-2023

Mr. Shujaat Ali Khan, advocate a/w applicant Abdul Sattar.
Applicant Mohammad Dad Shah Baloch present, his counsel called absent.
Ms. Robina Qadir, Additional P.G.

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Omar Sial, J: Abdul Sattar (through Criminal Bail App No. 2076 of 2022) and Mohammad Dad Shah Baloch (through Criminal Bail App No. 2044 of 2022) have sought pre-arrest bail in crime number 877 of 2022 registered under sections 302, 147 and 149 P.P.C. at the Taimoria police station. Earlier, their applications seeking bail were dismissed on 17.10.2022 by the learned 7th Additional Sessions Judge, Karachi Central.

2. A background to the case is that the aforementioned F.I.R. was registered on 21.08.2022 on the complaint of Mohammad Siddique. Siddique reported that on 20.08.2022 he saw his 35 year old brother Yousuf quarrelling with 6 persons. One of those 6 persons fired and injured Yousuf but was apprehended by the residents. The remaining ran away. The apprehended boy was identified as Adnan who then told the police the names of only 2 of his companions which included both the applicants. The crime weapon was recovered from Adnan on the spot. The deceased had sustained one bullet injury.

3. I have heard the learned counsel for the applicant Abdul Sattar. None appeared for the applicant Mohammad Dad Shah Baloch nor did the complainant effect an appearance despite him and his counsel being at notice. I have also heard the learned Addl.P.G. My observations and findings are as follows.

4. It is an admitted fact by the prosecution that the deceased received one bullet injury and that that fire had been made by the apprehended accused Adnan and that the crime weapon was also recovered from him. The investigators had proceeded merely on the alleged disclosure made by Adnan as to who his companions were. An accusation being made by a co-accused without any further evidence to corroborate the accusation per se may not be admissible as evidence. I find it odd at this stage that out of the 5 other persons who allegedly had accompanied Adnan, Adnan knew the names of only 2 such persons. The F.I.R. contains no description of any of Adnan's companions or the type of weapons they held. While this aspect in itself may not be integral at this stage, I am not satisfied that there was no malafide on the part of the police to nominate further accused in the case. Whether or not the applicants can be held vicariously liable for the alleged act of Adnan and whether they were indeed accompanying him at the time of the incident, are both issues which, in light of the evidence available on record, can only be decided after evidence is led at trial. The case of the applicants is one of further inquiry.

5. I have noticed that a typographical error had crept in the short order dated 20.03.2023 to the extent that the presence of the applicant Mohammad Dad Shah Baloch has not recorded in the order. The applicant was present but his counsel had remained absent.

6. Above are the reasons for the short order dated 20.03.2023.

JUDGE